

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

---

**In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE LITIGATION**

---

)  
) **MDL No. 1456**  
) **Master File No. 01-CV-12257-PBS**  
) **Subcategory Case No. 06-11337**  
) **Hon. Patti B. Saris**

**THIS DOCUMENT RELATES TO:**

)  
) **Magistrate Judge**  
) **Marianne B. Bowler**

*United States of America ex rel. Ven-A-Care of the  
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*  
Civil Action No. 05-11084-PBS

---

**DECLARATION OF SARAH L. REID IN SUPPORT OF DEY'S OPPOSITION  
TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

**SARAH L. REID** declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel to Dey L.P., Dey, Inc., and Dey L.P., Inc. (collectively "Dey"). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.

2. I make this Declaration in Support of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment.

3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Dey, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.

4. Attached hereto as Exhibit 297 is a true and correct copy of excerpts from the deposition of Gary Walker, taken on July 9, 2008.<sup>1</sup>

---

<sup>1</sup> Exhibits in Support of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment are consecutively numbered to follow exhibits submitted in Dey's moving papers.

5. Attached hereto as Exhibit 298 is a true and correct copy of excerpts from the deposition of Cardinal Health's 30(b)(6) designee, Matthew Erick, taken on June 17, 2008.

6. Attached hereto as Exhibit 299 is a true and correct copy of excerpts from the deposition of McKesson Corporation's 30(b)(6) designee, Saul Factor, taken on June 20, 2008.

7. Attached hereto as Exhibit 300 is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, taken on May 15, 2008.

8. Attached hereto as Exhibit 301 is a true and correct copy of excerpts from the deposition of Cardinal Health's 30(b)(6) designee, Matthew Erick, taken on June 27, 2008.

9. Attached hereto as Exhibit 302 is a true and correct copy of excerpts from the deposition of McKesson Corporation's 30(b)(6) designee, Saul Factor, taken on September 4, 2008.

10. Attached hereto as Exhibit 303 is a true and correct copy of excerpts from the deposition of Cardinal Health's 30(b)(6) designee, Ron Reich, taken on June 7, 2007.

11. Attached hereto as Exhibit 304 is a true and correct copy of excerpts from the deposition of Kate Teringer, taken on April 4, 2007.

12. Attached hereto as Exhibit 305 is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, taken on July 10, 2008.

13. Attached hereto as Exhibit 306 is a true and correct copy of excerpts from the deposition of Russell Johnston, taken on December 10, 2008.

14. Attached hereto as Exhibit 307 is a true and correct copy of excerpts from the deposition of Russell Johnston, taken on December 11, 2008.

15. Attached hereto as Exhibit 308 is a true and correct copy of a letter from Dey to State Medicaid Programs, dated July 18, 2000, Bates DL-0050107 to DL-0050113.

16. Attached hereto as Exhibit 309 is a true and correct copy of a Generic Wholesale Service Agreement between Dey and Cardinal Health, dated January 1, 1999, Bates CH0055539 to CH0055560, previously marked as Erick Exhibit 3.

17. Attached hereto as Exhibit 310 is a true and correct copy of excerpts from the deposition of Pamela Marrs, taken on May 2, 2002.

18. Attached hereto as Exhibit 311 is a true and correct copy of excerpts from the deposition of John Lockwood, taken on July 23, 2008.

19. Attached hereto as Exhibit 312 is a true and correct copy of Dey's Monthly Sales Report for January 1994, Bates DL-TX-84723-84731.

20. Attached hereto as Exhibit 313 is a true and correct copy of Dey's Monthly Sales Report for January 1995, Bates DL-TX-84344-84372.

21. Attached hereto as Exhibit 314 is a true and correct copy of Dey's Monthly Sales Report for January 1996, Bates DL-TX-83831-83866.

22. Attached hereto as Exhibit 315 is a true and correct copy of Dey's Monthly Sales Report for January 1997, Bates DL-TX-83379-83406.

23. Attached hereto as Exhibit 316 is a true and correct copy of Dey's Monthly Sales Report for January 1998, Bates DL-TX-82649-82734.

24. Attached hereto as Exhibit 317 is a true and correct copy of Dey's Monthly Sales Report for January 1999, Bates DL-TX-81823-81889.

25. Attached hereto as Exhibit 318 is a true and correct copy of Dey's Monthly Sales Report for January 2000, Bates DL-TX-80995-81060.

26. Attached hereto as Exhibit 319 is a true and correct copy of Dey's Monthly Sales Report for January 2001, Bates DL-TX-80208-80272.

27. Attached hereto as Exhibit 320 is a true and correct copy of excerpts from the deposition of Patricia Kay Morgan, taken on November 30, 2007.

28. Attached hereto as Exhibit 321 is a true and correct copy of excerpts from the deposition of Robert F. Mozak, taken on April 30, 2002.

29. Attached hereto as Exhibit 322 is a true and correct copy of a spreadsheet entitled “Albuterol .083% Solution as of June 1997,” previously marked as NY Counties Exhibit 15 at the deposition of Susan Gaston, taken on March 19, 2008.

30. Attached hereto as Exhibit 323 is a true and correct copy of excerpts from the deposition of Thomson PDR, Inc.’s 30(b)(6) designee, Kristen Minne, taken on November 18, 2008.

31. Attached hereto as Exhibit 324 is a true and correct copy of excerpts from the deposition of Thomson PDR, Inc.’s 30(b)(6) designee, Kristen Minne, taken on November 19, 2008.

32. Attached hereto as Exhibit 325 is a true and correct copy of excerpts from the deposition of Helen Burnham Selenati, taken on May 5, 2005.

33. Attached hereto as Exhibit 326 is a true and correct copy of excerpts from the deposition of Ross Uhl, taken on February 24, 2003.

34. Attached hereto as Exhibit 327 is a true and correct copy of excerpts from the deposition of Helen Burnham Selenati, taken on May 4, 2005.

35. Attached hereto as Exhibit 328 is a true and correct copy of a Dey Laboratories memorandum from Carrie Jackson to Mari Carrell, Alberto Hoyo, and Ross Uhl, dated August 12, 1994, Bates TX-D&W-07924, previously marked as Selenati Exhibit 45.

36. Attached hereto as Exhibit 329 is a true and correct copy of excerpts from the deposition of Cynthia Collie, taken on February 19, 2003.

37. Attached hereto as Exhibit 330 is a true and correct copy of excerpts from the deposition of Robert Ellis, taken on February 10, 2003.

38. Attached hereto as Exhibit 331 is a true and correct copy of excerpts from the deposition of Eve Gmeiner, taken on January, 20, 2003.

39. Attached hereto as Exhibit 332 is a true and correct copy of excerpts from the deposition of Charles Rice, taken on October 30, 2001.

40. Attached hereto as Exhibit 333 is a true and correct copy of excerpts from the deposition of Bruce Tipton, taken on February 13, 2003.

41. Attached hereto as Exhibit 334 is a true and correct copy of excerpts from the deposition of Richard Upp, taken on February 14, 2003.

42. Attached hereto as Exhibit 335 is a true and correct copy of excerpts from the deposition of Debra Bronstein, taken on March 11, 2003.

43. Attached hereto as Exhibit 336 is a true and correct copy of excerpts from the deposition of Todd Galles, taken on February 6, 2003.

44. Attached hereto as Exhibit 337 is a true and correct copy of excerpts from the deposition of Robert F. Mozak, taken on November 1, 2001.

45. Attached hereto as Exhibit 338 is a true and correct copy of excerpts from the deposition of Robert F. Mozak, taken on November 6, 2002.

46. Attached hereto as Exhibit 339 is a true and correct copy of an Account Call Record, dated September 12, 1995, Bates Dey-FLA-0039599, previously marked as Selenati-FL Exhibit 53.

47. Attached hereto as Exhibit 340 is a true and correct copy of a memorandum from Rich Speno to Lou Barricelli regarding Medicaid Update, dated September 22, 1995, Bates DEY-FLA-0144171, previously marked as Selenati-FL Exhibit 52.

48. Attached hereto as Exhibit 341 is a true and correct copy of a Bluebook Report Update from Eve Gmeiner to Beth Raider, dated December 4, 1995, Bates DL-TX-0090591 to DL-TX-0090596, previously marked as Texas Exhibit 342.

49. Attached hereto as Exhibit 342 is a true and correct copy of excerpts from the deposition of Simon Platt, taken on March 18, 2009.

50. Attached hereto as Exhibit 343 is a true and correct copy of excerpts from the deposition of Charles Rice, taken on March 24, 2003.

51. Attached hereto as Exhibit 344 is a true and correct copy of excerpts from the deposition of Robert F. Mozak, taken on March 13, 2003.

52. Attached hereto as Exhibit 345 is a true and correct copy of excerpts from the deposition of Bruce Tipton, taken on March 21, 2006.

53. Attached hereto as Exhibit 346 is a true and correct copy of excerpts from the deposition of Dey's 30(b)(6) designee, Pamela Marrs, taken on October 2, 2008.

54. Attached hereto as Exhibit 347 is a true and correct copy of excerpts from the deposition of Todd Galles, taken on February 28, 2006.

55. Attached hereto as Exhibit 348 is a true and correct copy of the Declaration of Hema Chandranatha in Support of Plaintiff's *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction, filed on April 15, 2003 in *Dey, L.P. v. First Databank, Inc., et al.*, Civil Action No. 26-21019 (Calif. Super. Ct.).

56. Attached hereto as Exhibit 349 is a true and correct copy of the Declaration of Steven Desrosiers in Support of Plaintiff's *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction, filed on April 15, 2003 in *Dey, L.P. v. First Databank, Inc., et al.*, Civil Action No. 26-21019 (Calif. Super. Ct.).

57. Attached hereto as Exhibit 350 is a true and correct copy of the Declaration of Becky Farris in Support of Plaintiff's *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction, filed on April 15, 2003 in *Dey, L.P. v. First Databank, Inc., et al.*, Civil Action No. 26-21019 (Calif. Super. Ct.).

58. Attached hereto as Exhibit 353 is a true and correct copy of the Declaration of Pamela Marrs in Support of Plaintiff's *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction, filed on April 15, 2003 in *Dey, L.P. v. First Databank, Inc., et al.*, Civil Action No. 26-21019 (Calif. Super. Ct.).

59. Attached hereto as Exhibit 354 is a true and correct copy of "State Medicaid Manual Part 6 – Payment for Services.

60. Attached hereto as Exhibit 355 is a true and correct copy of excerpts from the deposition of Carrie Jackson, taken on April 18, 2003.

61. Attached hereto as Exhibit 356 is a true and correct copy of a letter from Carrie Jackson to Martha McNeill, dated August 31, 1993, previously marked as Exhibit 880.

62. Attached hereto as Exhibit 357 is a true and correct copy of an Account Call Record, dated May 9, 1994, Bates DEY-BO-0273240, previously marked as Hill Exhibit 27A.

63. Attached hereto as Exhibit 358 is a true and correct copy of an Account Call Record, dated May 31, 1994, Bates DEY-BO-0273242, previously marked as Hill Exhibit 36A.

64. Attached hereto as Exhibit 359 is a true and correct copy of a Weekly Sales Recap, dated May 24, 1994, Bates DEY-BO-0273241, previously marked as Hill Exhibit 25A.

65. Attached hereto as Exhibit 360 is a true and correct copy of an Account Call Record, dated June 1, 1994, Bates DEY-OIG-0125381, previously marked as Hill Exhibit 38A.

66. Attached hereto as Exhibit 361 is a true and correct copy of an Account Call Record, dated June 9, 1994, Bates DEY-BO-0273246, previously marked as Hill Exhibit 39A.

67. Attached hereto as Exhibit 362 is a true and correct copy of an Account Call Record, dated June 10, 1994, Bates DEY-BO-0273245, previously marked as Hill Exhibit 40A.

68. Attached hereto as Exhibit 363 is a true and correct copy of an Account Call Record, dated November 17, 1994, Bates DEY-OIG-0125353, previously marked as Hill Exhibit 42A.

69. Attached hereto as Exhibit 364 is a true and correct copy of excerpts from the deposition of William Hill, taken on November 11, 2008.

70. Attached hereto as Exhibit 365 is a true and correct copy of excerpts from the deposition of Michael Ricks-Bey, taken on January 8, 2009.

71. Attached hereto as Exhibit 366 is a true and correct copy of an Order by Magistrate Judge Marianne B. Bowler, filed on December 18, 2008 in *United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS (D. Mass.).

72. Attached hereto as Exhibit 367 is a true and correct copy of the Arrest Record in *Colorado v. Michael Todd Ricks*, Case No. 2004CR000383.

73. Attached hereto as Exhibit 368 is a true and correct copy of the Arrest Record in *Colorado v. Michael Todd Ricks*, Case No. 2005CR003189.



74. Attached hereto as Exhibit 369 is a true and correct copy of the Arrest Record in *Colorado v. Michael Todd Ricks*, Case No. 2005F02465.

75. Attached hereto as Exhibit 370 is a true and correct copy of an article from *The Denver Post*, dated April 5, 2005, previously marked as Dey Exhibit 1021.

76. Attached hereto as Exhibit 371 is a true and correct copy of Judgment of Conviction in *Colorado v. Michael Todd Ricks*, Case No. 2004 CR 000383.

77. Attached hereto as Exhibit 372 is a true and correct copy of Judgment of Conviction in *Colorado v. Michael Todd Ricks*, Case No. 2005 CR 003189.

78. Attached hereto as Exhibit 373 is a true and correct copy of an article from *The Denver Post*, dated September 9, 2005, previously marked as Dey Exhibit 1022.

79. Attached hereto as Exhibit 374 is a true and correct copy of documents provided by Mr. Ricks-Bey regarding his allegations of illegal detention and membership in the Washitaw Nation of Muurs, previously marked as Dey Exhibit 1020.

80. Attached hereto as Exhibit 375 is a true and correct copy of Dey's Average Wholesale Price List, dated November 15, 1996, Bates DL-TX-0096238.

81. Attached hereto as Exhibit 376 is a true and correct copy of Dey's Average Wholesale Price List, dated September 17, 1996, Bates DL-TX-0091799.

82. Attached hereto as Exhibit 377 is a true and correct copy of Dey's Average Wholesale Price List, dated December 1, 1995, Bates DL-TX-0093381.

83. Attached hereto as Exhibit 378 is a true and correct copy of Dey's Average Wholesale Price List, dated March 1, 1996, Bates DL-TX-0105334.

84. Attached hereto as Exhibit 379 is a true and correct copy of Dey's Average Wholesale Price List, dated May 1, 1994, Bates DL-BO-114574.

85. Attached hereto as Exhibit 380 is a true and correct copy of excerpts from the deposition of Todd Galles, taken on March 1, 2006.

86. Attached hereto as Exhibit 381 is a true and correct copy of Florida Agency for Health Care Administration's State Plan Amendment, Transmittal No. 93-56, Bates HHC008-0029.

87. Attached hereto as Exhibit 382 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on May 25, 2005.

88. Attached hereto as Exhibit 383 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated January 1996, Bates DL-TX-0083840.

89. Attached hereto as Exhibit 384 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated February 1996, Bates DL-TX-0083876.

90. Attached hereto as Exhibit 385 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated March 1996, Bates DL-TX-0083915.

91. Attached hereto as Exhibit 386 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated April 1996, Bates DL-TX-0083955.

92. Attached hereto as Exhibit 387 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated May 1996, Bates DL-TX-0083999.

93. Attached hereto as Exhibit 388 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated June 1996, Bates DL-TX-0084042.

94. Attached hereto as Exhibit 389 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated July 1996, Bates DL-TX-0084113.

95. Attached hereto as Exhibit 390 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated August 1996, Bates DL-TX-0084148.

96. Attached hereto as Exhibit 391 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated September 1996, Bates DL-TX-0084190.

97. Attached hereto as Exhibit 392 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated October 1996, Bates DL-TX-0084231.

98. Attached hereto as Exhibit 393 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated November 1996, Bates DL-TX-0084270.

99. Attached hereto as Exhibit 394 is a true and correct copy of Dey Laboratories Monthly Net Sales, dated December 1996, Bates DL-TX-0084306.

100. Attached hereto as Exhibit 395 is a true and correct copy of excerpts from the deposition of James Gist, taken on November 5, 2002.

101. Attached hereto as Exhibit 396 is a true and correct copy of excerpts from the deposition of Chris Gurchiek, taken on May 3, 2002.

102. Attached hereto as Exhibit 397 is a true and correct copy of excerpts from the deposition of Willia Tate, taken on February 7, 2003.

103. Attached hereto as Exhibit 398 is a true and correct copy of excerpts from the deposition of Pamela Marrs, taken on April 16, 2003.

104. Attached hereto as Exhibit 399 is a true and correct copy of a letter from Charles Rice to Congressman Tom Bliley, dated June 30, 2000.

105. Attached hereto as Exhibit 400 is a true and correct copy of CMS's Internet-Only Manual, Publication 100-04, Medicare Claims Processing Manual, Chapter 17.

106. Attached hereto as Exhibit 401 is a true and correct copy of excerpts from the deposition of Katherine Ahrens, taken on May 20, 2009.

107. Attached hereto as Exhibit 402 is a true and correct copy of excerpts from the deposition of Larry Reed, taken on March 18, 2008.

108. Attached hereto as Exhibit 403 is a true and correct copy of excerpts from the deposition of Robert Vito, taken on June 20, 2007.

109. Attached hereto as Exhibit 404 is a true and correct copy of excerpts from the deposition of Linda Ragone, taken on April 17, 2007.

110. Attached hereto as Exhibit 405 is a true and correct copy of the Declaration of W. David Bradford, Ph.D. in Support of Dey's Opposition to Plaintiffs' Motion for Summary Judgment, Inc., filed on August 28, 2009 in *United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS (D. Mass.).

111. Attached hereto as Exhibit 406 is a true and correct copy of the Declaration of Lauren J. Stiroh in Support of Dey's Opposition to Plaintiffs' Motion for Summary Judgment, Inc., filed on August 28, 2009 in *United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al. v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS (D. Mass.).

112. Attached hereto as Exhibit 407 is a true and correct copy of excerpts from the deposition of Matthew Perri, taken on February 20, 2009.

113. Attached hereto as Exhibit 408 is a true and correct copy of Transcript of Motion Hearing, dated December 4, 2008 in *Citizens For Consume, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS (D. Mass.).

114. Attached hereto as Exhibit 409 is a true and correct copy of Reimbursement Comparison Worksheet, Bates DEY-BO-0240246, previously marked Ricks-Bey Exhibit 4.

115. Attached hereto as Exhibit 410 is a true and correct copy of a Dey Memorandum from Todd Galles, dated April 5, 1995, Bates DL-TX-0091109, previously marked Ricks-Bey Exhibit 12.

116. Attached hereto as Exhibit 411 is a true and correct copy of a print-out of a page from the inmate locator from the Colorado Department of Corrections website, *available at* [https://exdoc.state.co.us/inmate\\_locator/offender\\_list.php](https://exdoc.state.co.us/inmate_locator/offender_list.php).

117. Attached hereto as Exhibit 412 is a true and correct copy of excerpts from the deposition of Sue Gaston, taken on March 19, 2008.

118. Attached hereto as Exhibit 413 is a true and correct copy of a spreadsheet titled Ipratropium Bromide AWP Prices, Source: April 2001 Red Book for Windows, dated June 4, 2001, Bates HHD181-0029.

119. Attached hereto as Exhibit 414 is a true and correct copy of a spreadsheet titled Product Information containing information on Cromolyn Sodium by manufacturer, dated July 2000, Bates HHD006-0740 to HHD006-0741.

120. Attached hereto as Exhibit 415 is a true and correct copy of a spreadsheet titled Product Information containing information on Albuterol Sulfate by manufacturer, dated July 2000, Bates HHD006-0711 to HHD006-0716.

121. Attached hereto as Exhibit 416 is a true and correct copy of a spreadsheet titled Product Information containing information on Albuterol Sulfate by manufacturer, dated January 2001, Bates HHD006-0703 to HHD006-0710.

122. Attached hereto as Exhibit 417 is a true and correct copy of a spreadsheet titled Product Information and containing information on Ipratropium Bromide by manufacturer, dated April 2000, Bates HHD005-0374.

123. Attached hereto as Exhibit 418 is a true and correct copy of a spreadsheet containing information on Albuterol Sulfate by manufacturer, dated April 2000, Bates HHD005-0366 to HHD005-0370.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on August 28, 2009.

/s/Sarah L. Reid

Sarah L. Reid

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on August 28, 2009, a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/Sarah L. Reid

Sarah L. Reid